CHAPTER 11

THE RE-ISSUES AND THE BEGINNING OF THE MYTH

The charter of 1215 was the work of King John's enemies. The re-issues of 1216 and 1217 were the work of his friends and supporters. The men who fought and won the war for John's son had also given him their advice at Runnymede and taken the oath of obedience to the Twenty-Five. They had fought not so much to destroy the Charter as to preserve Angevin control of the throne, to protect all the benefits they had received hitherto as friends and suporters of the king and to preserve their control of office and their influence in local politics. None of this precluded them from acknowledging that many of the demands of the original Charter were just and reasonable. Of those who had advised the king at Runnymede, only one, William Briwerre, opposed any of the later confirmations. In 1224 he advised the young Henry against confirmation on the grounds that the original grant had been exacted by force. Despite the fact that his objection was similar to Innocent III's, he was now firmly instructed by Stephen Langton to hold his tongue lest he endanger the peace of the realm.[1] The rebellion of 1215 had failed but much of its programme succeeded.

[1] *Chron. Maj.* III, 76. With some hesitation I retain Kate Norgate's amendment of Wendover's date for this incident (Norgate, 1912, pp. 214–16). Dr Carpenter reverts to Wendover's date of 1223 (1990, 297n). Three matters should be considered. First, the writs of 30 January 1223 ordering an inquiry into royal liberties do not refer to any measure of approval, advice, or even consultation, which Dr Carpenter's argument seems to suppose (*Foedera*, I, part I, 168). Secondly, the writs of April 1223 did not cancel the inquiry but only the immediate promulgation and enforcement of the findings in the counties. The king indicated that he did not intend to impose evil customs, but he still required returns to be brought to him at Westminster by the octave of Trinity (*Rot. Litt. Claus.* I, 569). Hence the possible consequences of the investigation were still hanging fire in the summer of 1223. Thirdly, with characteristic carelessness, Wendover refers not to the liberties which King John had enjoyed at the outbreak of the civil war, as in the writs, but to the liberties enjoyed by Henry II.

The men chiefly responsible for this were the great loyalist barons of John's reign: William Marshal, earl of Pembroke, Ranulf, earl of Chester, William de Warenne, earl of Surrey, William, earl of Salisbury, backed by the old king's agents, foremost among whom was the Justiciar, Hubert de Burgh. They were reinforced by the curialist bishops and by the papal legate Guala. The charters of 1216 and 1217 were issued under the seals of the legate and of William Marshal, earl of Pembroke and *rector regis et regni*. This announced a change in papal policy, all the more effective because the pope was the young king's feudal lord as well as his spiritual guardian. The old figures in the dispute had departed. Innocent III was dead. Langton had been summoned to Rome. Pandulf had become bishop of Norwich. The legate Guala now sought stability and peace.[2] There is nothing to suggest that these men re-issued the Charter simply to accelerate the return of peace. It is more likely that with John now dead they could at last express their real views. John's death also removed the chief justification of those debatable sections of the Charter which had led to the renewal of war in the autumn of 1215. There are few direct indications of these men's attitude. William Marshal seems to have regarded the war as a tragedy which was best forgotten.[3] Ranulf of Chester responded to the situation in 1215 by issuing a charter of liberties to his men of Cheshire. Unfortunately this bears no date, although it must fall within the limits March 1215 – October 1216 and most probably in June to September 1215.[4] Some of its provis-

[2] See especially Cheney (1976), 396–400; Galbraith (1966), 316–17.

[3] Such at any rate was the attitude suggested by the marshal's biographer (see *Histoire de Guillaume le Maréchal*, II. 14842–59, 15031–6).

[4] The earlier limit is established by Ranulf's statement that he had taken the Cross, which he did along with King John in March 1215; the later by the death of one of the witnesses, Hugh de Pascy, between May and October 1216 (see Tait's notes, 1920, p. 107). Barraclough narrows Tait's date-limits, rightly emphasizing that the Cheshire charter must be subsequent to Magna Carta. He also adds information on the MSS of the text (*The Charter of the Anglo-Norman Earls of Chester c. 1071–1237*, ed. Geoffrey Barraclough, Record Society of Lancashire and Cheshire, CXXVI, 1988, no. 394).

ions are similar to those in Magna Carta;[5] it is particularly striking that this charter, like John's, laid down that the barons of the county should grant to their men the same privileges which the earl had granted to them.[6] It is probable that it was issued because Magna Carta did not run within the franchise of Cheshire.[7] On the other hand the wording of the two documents is nowhere close enough to establish that one was copied from the other. Moreover cap. 17 of the Cheshire Charter reveals that the earl's barons presented certain petitions, chiefly concerned with the rights of wreck and the problem of the forest, which Earl Ranulf refused and which they now abandoned. But he did meet some of their requests. Indeed the Charter is largely made up of local concessions not directly connected with Magna Carta. Like Peter de Brus's Langbargh charter,[8] the Cheshire Charter was a local charter dealing with local problems. Its author was not likely to oppose the re-issue of Magna Carta if there were a reasonable demand for it which did not impinge on his own power. It was probably in such a

[5] Caps. 10, 11, 12, on relief, widows, wardship, disparagement, and testaments. For the text, see *ibid.* no. 394.

[6] Cheshire, cap. 18; Magna Carta, cap. 60.

[7] Tait (1920), p. 108. See also Barraclough (1953), pp. 19–22, which follows Tait. The Cheshire Charter became the local Charter of Liberties, and was confirmed frequently in later years, sometimes on the same occasions as Magna Carta (Tait, 1920, pp. 108–9; Barraclough, 1953, p. 22). But Magna Carta made no exception in favour of Cheshire or any other franchise. On the contrary caps. 56 and 60 imply that no exceptions were intended. Furthermore, it does not seem that Durham was treated in this way. There is no evidence that Magna Carta 1215 was sent to Durham, but the Church of Durham certainly had its originals of the 1216 and 1225 Charters of Liberties and of the 1217 and 1225 Charters of the Forest in the middle years of the thirteenth century, for they are noted on an added quire in the *Cartularium Vetus*. There is no clinching evidence that these were originally sent to Durham, but this seems very likely, both on general grounds and because two of them, the Charter of the Forest of 1217 and the Charter of Liberties of 1225, carry similar contemporary endorsements in what seems to be the same hand. There may have been good reasons for treating Durham and Chester differently in 1215. The see was then vacant, as it had been on occasion in the past. This linked it more closely to the Crown; indeed it is possible that the acquisition of the royal assizes by the tenants of the bishopric had created a precedent. Cheshire, in contrast, was an area of strongly rooted and independent local custom.

[8] See above, pp. 67–8.

mood that Ranulf, William Marshal and their supporters proceeded to re-examine the work of 1215.

The re-issue of 1216 probably represents fairly closely what the attitude of these men had been in 1215. They now accepted most of the Charter's provisions which were concerned with feudal incidents and the operations of the judicial system, but they rejected all the retrospective clauses which John had been forced to accept, and they reserved judgement on many of those sections which intruded into problems of feudal service, finance and administration. These sections, which were described as 'weighty and doubtful' and were reserved for further discussion, included the provisions on scutages and aids, on the collection of debts, on free entry into and exit from the country, and on the investigations into the behaviour of sheriffs, foresters and other officials.[9] Other provisions quietly vanished without any comment at all. Cap. 6 of the 1215 Charter was now cut down to the bare statement that there should be no disparagement; the provision that the king should consult the nearest relatives was simply dropped. Cap. 25, which forbade the assessment of increments on shire farms, disappeared; so also did the provisions on intestacy.[10] In the main the loyalist magnates seem to have been concerned to restrict the Charter's intrusion into the administrative powers of the Crown. But they also showed an appreciation of the practical needs of the moment. There was now no demand for the dismissal of the alien administrators or soldiers, and no provision that officials were to be chosen from those who knew the law of the land. For the moment the aliens were indispensable to the success of the Angevin cause.

The 1216 Charter was an interim assertion of policy made in the middle of a civil war within a month of John's death.[11] But it was more than a hasty political stratagem. It

[9] For the text, see appendix 12, below, p. 510 n.

[10] Cap. 27.

[11] John died on the night of 18/19 October at Newark. The Charter was dated 12 November at Bristol.

was sealed not only by the marshal, but also by the papal legate, Guala. This tacit rejection of the papal annulment of 1215 cannot have been made lightly. Furthermore it is clear that the marshal took the Charter seriously because he arranged for it to be sent to Ireland and a copy was duly forwarded under letters of 6 February 1217.[12] This would have been quite unnecessary if in the marshal's view the Charter had been nothing more than a sop to encourage surrender, for the Normans in Ireland had been loyal throughout the rebellion in England. Even during a war the administrative and legal minds which had presumably been responsible for the original improvement of the Charter's drafting at Runnymede were still at work adding to and improving the text. Cap. 3 now included the statement that heirs reached their majority at the age of twenty-one; cap. 5 was extended to cover ecclesiastical estates in custody; cap. 7 was considerably expanded to define the size of a widow's dower and to provide for the contingency that her dead husband's house might be a castle in which it would be inconvenient for her to stay for the forty days she was allowed after his death. Caps. 19 and 21 laid down more careful arrangements for the purchase of corn and the hiring of horses and carts by royal officials; the needs of war were also met by excluding towns in which there were castles from the restrictions on purveyance. A considerable amount of thought and care went into this re-issue of the Charter. It was produced at a critical point in the civil war. These additions reflect a remarkable interest in the Charter among administrative and judicial officials of the court and a remarkable confidence in the outcome of the war. These men were already building for the future.

These influences were even stronger in the second re-issue of the Charter, which followed the Treaty of Lambeth

[12] *Foedera*, I, part 1, 145; *Patent Rolls, 1216–25*, p. 31. For the text of the Irish charter see H. G. Richardson, 'Magna Carta Hiberniae', *Irish Historical Studies*, III (1942–3), 31–3.

ending the civil war in September 1217.[13] This made considerable adjustments in the original provisions concerning assizes. These were now to be held once, not four times a year; unfinished business was now to be postponed to a later date in the judges' circuit, and difficult cases and all cases of darrein presentment were to be referred to the justices of the Bench.[14] Men with legal experience clearly took a hand here to reduce the demands of the 1215 Charter to manageable dimensions. It was most likely they, too, who framed two entirely new provisions which limited a tenant's capacity to alienate his fee by stating that he must be able to perform the service due,[15] and forbade collusive alienation of land in free alms whereby the tenant escaped the performance of secular service to his lord.[16] Amidst these legal refinements the 'grave and doubtful' clauses of the 1216 Charter almost vanished from view. All that was left of the more radical demands of 1215 was cap. 37, which laid down that scutage was to be taken henceforth as it had been in the reign of Henry II.[17] This was safe and unadventurous. Nothing was said of increments on shire farms or the collection of debts, or the question of the Jews or the investigation of officials. All this was quietly abandoned. The re-issue had its eye very much on the practical. It

[13] The treaty, which was agreed on 12 September, included a promise by Henry that he would concede all the liberties which the barons had demanded. This version of the Charter of 1217 is undated, and, though sealed, is not entirely satisfactory on other grounds, as Blackstone noted (p.xl, n.u). There are three possible dates: 12 September, 23 September, when a council was held at Merton, and 6 November, which is the date of the Charter of the Forest. Of the three the last two are the more likely and 6 November much the most probable. Blackstone favoured 23 September (p.xxxix), and Bémont 6 November (1892, p.xxviii). Stubbs (1896, II, 26) supported 6 November, although he had left the issue open in the *Charters* (1888), p.344. Blackstone himself noted (p.xxxix) the large number of copies which end with 'Data per manum venerabilis patris domini R. Dunelmensis episcopi cancellarii nostri apud sanctum Paulum London' sexto die Novembris anno regnis nostri secundo', and, as Dr Carpenter has pointed out (1990, p. 60n.), this cannot have been derived from the Charter of the Forest. This seems to settle the question, but the matter awaits a further study by Dr Carpenter and Mr Vincent.

[14] Caps, 12, 13 (1225). On the latter see Doris M. Stenton (1964), pp. 45–6.

[15] Caps. 32 (1225). See Milsom (1976), 113–14, 117–19.

[16] Cap. 36 (1225); Milsom (1976), p. 10.

[17] Cap. 37. The rate under Henry II had varied between 1 m. and 2 m.

ordered the destruction of adulterine castles raised during the civil war.[18] It also inserted a saving clause protecting the liberties and free customs enjoyed by the upper ranks of the ecclesiastical and secular hierarchy.[19] This was placed next to cap. 60 of the 1215 document, which laid down that the barons were to concede to their men what the king had conceded to them. Side by side, the one had a moderating effect on the other.

The Charter of 1217 may well reflect one further influence. Cap. 48 of the 1215 Charter, which provided for investigations into local administration, laid down that the king was to be informed of any proposed remedies before they were put into effect. In the summer of 1215 the king must have had some kind of information on which to base his protest against the activities of these commissions. The investigators were likely to record the evidence as they were accustomed to do in any such local inquiry. None of this evidence now survives, but the documents of 1217 suggest that a considerable amount survived then and was used by the men who drafted the Charter. Cap. 42 (1225, cap. 35) laid down that the shire court was not to meet more than once a month. The sheriff was not to make his tourn more than twice a year, at Easter and Michaelmas. At Michaelmas he was to hold view of frankpledge without seeking pretexts of infringing well-established private liberties, and he was to be content with such profits from his view as sheriffs had been able to take in the reign of Henry II. This looks like a composite clause built up from local complaints. It is closely similar in tone and detail to the privileges men had been buying and defending locally before 1215[20] and it was a provision which became highly prized by the knights of the shire in the years which followed.[21]

The work of the commissions of 1215 must have been

[18] See below, p. 510, n. 1.
[19] See below, pp. 509–10.
[20] See above, pp. 61–2.
[21] See below, pp. 390–6.

even more valuable in compiling the Charter of the Forest. Indeed this Charter is the best evidence there is that their work survived, for it is unlikely that such lengthy regulations could have been drawn up so soon after the civil war without some kind of documentary preparation. Only one of its clauses, cap. 2, was taken direct from the 1215 Magna Carta;[22] a fragment of another repeated the provision of the 'unknown' charter that no one was to lose life or limb for an offence against the forest law.[23] The rest were new and they carried the regulation of the forest law far beyond anything considered or even suggested in any of the earlier documents.[24] The Charter also aimed at settling the old argument about the extent of the forest. Cap. 1 now laid down that the forests created by Henry II were to be disafforested except where he had afforested his own demesne woods. Cap. 3 applied a similar ruling to the afforestations of Richard and John. The Charter did not seek radical solutions. Cap. 4 pardoned all purprestures and assarts made within private woods since the accession of Henry II, and laid down that those who made such invasions of the forest in the future without royal licence would have to answer for them. But it came to carry radical implications, for it chose the coronation of Henry II as the standard for determining both the extent and customs of the forest.[25] This again seems to have been inherited from the demands of 1215.[26] The drafters of the Charter would have been either naïve or obtuse to put forward such a date themselves because it could mean one of two things – either the forest which Henry actually had at his accession, or alternatively the forest to which he was entitled at his accession. Between the two lay all that the Crown had lost in the reign of Stephen. This was of such dimensions that the execution of the clauses

[22] Magna Carta, cap. 44.
[23] Cap. 10; 'unknown' charter, cap. 12.
[24] For an account of these, see Turner (1899), *passim*, and Petit-Dutaillis (1908), II, 187–98.
[25] Caps, 1, 4, 5, 6, 15.
[26] See the provision of the 'unknown' charter, cap. 9, and above, pp. 341–2.

of disafforestation remained unsettled throughout the thirteenth century. Indeed the repeated demand for disafforestation was one of the main reasons for the periodical confirmation of the Charters from 1225 on to the end of the reign of Edward I.[27] The Forest Charter and the particular issue of disafforestation helped to keep Magna Carta alive.[28]

In 1217 the loyalists borrowed the rebels' clothing, or at least that part of it which they cared to wear. The two Charters of 1217 were a solemn pledge of policy which was further honoured in the next few years by the ejection of the old king's alien administrators and the redistribution of honours and office. When the Charters were finally re-issued in 1225, nine of the Twenty-Five barons of 1215 were dead. Of the remainder, nine witnessed the new grant along with great loyalist magnates, Ranulf of Chester, William of Salisbury, Hubert de Burgh and others, who had fought them in 1215. This was the final moment of reconciliation.

Despite this, the attitude of the loyalists is revealed as clearly by what they left out of the re-issues as by what they kept in. Their selection was deliberate and bore immediate fruit in policy. They had no hesitation at all in retaining as much of the Angevin systems of government as their own objectives required and the terms of the Charter permitted. Hence they exacted charters of fealty to secure the surrender of the rebels just as John had done.[29] They were unembarrassed by many of the complaints of 1215. They asked for hostages where they thought them necessary.[30] The government felt quite free to permit lords to levy aids on as wide a variety of occasions as before 1215.[31] In 1223–4 Hubert de

[27] For an account of this, see Turner (1899), pp. xciii–cix.
[28] See Maddicott (1984) pp. 37–40; Young (1974), pp. 69–73; and especially David Crook, 'The Struggle over Forest Boundaries in Nottinghamshire 1218–1227', *Transactions of the Thoroton Society* LXXXIII (1979), 35–45.
[29] See above, p. 101 n. [30] See above, p. 101. [31] See above, p. 318.

Burgh revived the old policies of King John by demanding profits over and above the farms ordinarily due from the sheriffs for their shires.[32] He was simply continuing a general effort of re-organization which started much earlier at the very end of the war. It is marked by the care with which the Exchequer investigated sums due to it from the period before the war, by its attempts to collect together on separate memoranda all the outstanding sums due from its major debtors,[33] and by the immediate investigations arranged into debts due to the Jews and due from both the Jews and their debtors to the Crown.[34] The government faced great difficulties, and success came only slowly.[35] Nevertheless the administration of the minority of Henry III was not kid-gloved. On 13 November 1218 letters were sent to the sheriffs of Yorkshire and Lincolnshire on the subject of the Jewish debts owed by Gilbert of Benniworth, Norman Darcy, William de Scotigny and several other substantial men in the two counties. These men had failed to keep the arrangements they had made with King John about the repayments of their debts. The council therefore decided to transfer the debts to Elias the Jew of Lincoln, who had made a suitable payment for them, and arranged that he could exact both capital and interest. The sheriffs were instructed to inform the debtors that they were now to pay specified sums with interest to Elias from St Martin's Day onwards.

> If they do not do this [the letters ran] then you shall give the aforesaid Elias seisin of all the land and revenues which belonged to the aforesaid debtors in your bailiwicks in the tenth year of King John, the which lands and revenues are our pledge for the aforesaid debts, as is contained in our rolls in which the charters and chirographs of the above are enrolled . . . And you shall follow our instructions carefully lest, through

[32] Mills (1925), 167–8. He moved with circumspection in seeking profits rather than increments. See above, pp. 336–7.
[33] Mills (1925), pp. 161–5.
[34] H. Cole, *Documents Illustrative of English History in the Thirteenth and Fourteenth Centuries* (Record Commission, 1844), pp. 285 ff.
[35] See Carpenter (1990) especially pp. 70–127, 222–7, 268–89.

your default, our debts shall not be paid at the terms given to Elias and lest we shall be the losers in this matter.[36]

These letters were drawn up in the presence of Peter des Roches and William Briwerre. The old watchdogs of John's Exchequer had not forgotten their tricks. These arrangements bore all the worst features of John's administration.[37] Yet they apparently went out under the seal of William Marshal.[38] By the best contemporary standards defaulting debtors were still fair game.

The re-issues of the Charter did not suddenly alter the conduct of men whether rebel or loyalist, baron, judge or administrator. There was no sudden change in government policy except where the Charter fixed precise limits, as for example in the case of reliefs. The fact that the king was a minor was important because it committed the government into the hands of a small inner clique which had to discuss, correspond and reach agreement if the government was to move at all. This encouraged the growth of conciliar government, but it is important not to exaggerate its cohesion. Much of the correspondence which passed between William Marshal, Hubert de Burgh, Peter des Roches and the papal legate was not concerned with deep constitutional or legal questions, but with the settlement of claims, the exercise of patronage and the distribution of land and office, with the kind of business which must often have been settled by a brief word over John's gaming table in the previous reign. The fiction of an active king was still maintained. Men petitioned him for justice even though he was too young to answer their requests.[39] But the respect for government was not yet so inbred that men accepted its decisions with equanimity. The history of the minority was one of intrigue and incipient or actual rebellion. The risings of Robert de

[36] *Patent Rolls, 1216–25*, pp. 179–80.
[37] Compare the example of Simon the Jew of Oxford, above, pp. 335–6.
[38] The *Teste ut supra* here seems to refer to the previous letter but one.
[39] See the petition of Philip of Oldcoates of 1220, addressed to the king on being appointed Seneschal of Poitou (P.R.O., Ancient Petitions, file 340, no. 16038).

Gaugy at Newark, William of Aumale at Castle Bytham, and Faulkes de Bréauté at Bedford are well known. There were also many minor squabbles in which men jostled each other for power and wealth. William of Salisbury, for example, entered on an agreement with the untrustworthy William of Aumale in which his son was to marry Aumale's daughter. All this was embodied in a charter before the arrangement was broken off. William then informed the Justiciar that he was not a party to any attack Aumale might make on the king's lands.[40] He clearly knew more than he thought was healthy of Aumale's schemes. After abandoning his erstwhile ally he did not hesitate to stab him in the back. When Aumale was proposed as seneschal of Poitou, William of Salisbury wrote to the legate, Pandulf, to point out that his disobedience in executing the small responsibilities allotted to him in England scarcely fitted him for the far greater responsibility in Poitou.[41] William of Salisbury was well qualified to comment. He issued general letters some time in 1219 which announced that he had forbidden his deputy sheriff of Lincoln to render any account at the Exchequer for the revenues of the shire 'until such time as the council of the king satisfies us in the matter of the lands and other things promised to us by the lord king and his council'. The earl said he was taking the revenues into his own hands and would be answerable for them at the Exchequer.[42]

The minority made room not so much for a new sense of responsibility as for the open discussion and easy contradiction of government decisions. The re-issue of the Charter did not so much create a new pattern of behaviour by

[40] *Royal Letters of Henry III*, ed. W. W. Shirley (Rolls Series), I, 19–20.
[41] *Ibid.* 129.
[42] P.R.O., K.R. Memoranda Rolls, 3 Henry III, m. 5d. The earl had been trying to obtain control of Lincoln castle, despite the fact that the hereditary castellanship belonged to Nichola de la Haye, who had conducted a vigorous defence of it in the king's interest during the civil war (Norgate, 1912, pp. 148–9). He had also intruded into the manor of Mere (Wilts.), from which the government was trying to eject him (Holt, 1961, pp. 244–5). For these and other activities of William of Salisbury now see Carpenter (1990).

government and individuals, as reinforce the methods of thought and argument from which it had sprung. These now became political clichés. When Geoffrey de Neville, Sheriff of Yorkshire, was imprisoned by his enemies, the legate exhorted the Justiciar to see that he was released 'in accordance with justice and the law of the land'.[43] When in 1220 Richard de Umfraville, a Northumbrian baron who had been connected with the movement against King John as far back as 1212, defended his right to maintain the castle of Harbottle, he asked that the decision on whether it was adulterine or not should be made 'in the court of the lord king by the judgement of my peers'.[44] Some time after the death of Robert de Vieuxpont, one of John's most vigorous supporters, in 1228, his widow Idonea de Bully issued a charter to the men of Bawtry in which she confirmed the privileges they had obtained from her husband. She also conceded that pleas in the town were no longer to be held every fortnight as was customary, but every month. Burgesses were not to suffer if they stayed away from the court unless the bailiff could show that they had absented themselves in order to evade an action. If the bailiff could prove this then they were to make amends 'by consideration of their peers and by the judgement of the court'.[45] This expressed once more the familiar phrases of 1215.[46]

How much of this was due to the burgesses of Bawtry must remain in doubt. The phrases of this charter may simply be the result of casual repetition. Nevertheless, a famous case which occurred in Lincolnshire in 1226 shows that local feeling about the Charter might be very strong.[47]

[43] *Royal Letters of Henry III*, I, 130. For the circumstances see Norgate (1912), pp. 159–60.

[44] P.R.O., Ancient Correspondence, II, 16. I am obliged to Dr Patricia Barnes for bringing this to my notice.

[45] Bodleian Library, Dodsworth MS 70, fo. 2. The date of this charter is 1228–35, when Idonea died.

[46] It may also be that the concession of the monthly interval between courts was derived from cap. 42 of the 1217 re-issue.

[47] On this whole question, including this case and others discussed below, now see Maddicott (1984).

The sheriff and four knights were summoned before the king to explain certain difficulties which had arisen in the administration of justice within the county. The knights reported that the sheriff had heard pleas in the county court from dawn to dusk and had then decided to postpone the remaining business to the following day. Then, however, the knights of the county refused to enter the court to assist the course of justice on the grounds that the shire court ought to be held for one day only. The sheriff then postponed the outstanding cases to the courts of the wapentakes, but when he attempted to do judgement on those which came up in the court of Kesteven[48] the knights once more resisted on the grounds that such matters ought to be dealt with in the county court and nowhere else. The conflict thus arose directly out of the interpretation of cap. 42/35 of the 1217/1225 Charter. The interest of this action lies not only in this, but also in the arguments of Theobald Hautein and Hugh of Humby, who argued the case for the knights in the court of the wapentakes of Kesteven. Theobald had no hesitation in claiming knowledge of the intentions of the mighty. He had just come from the king's court, he said, where he had talked with the archbishop, the earl of Chester and other magnates, and he felt sure that very soon the knights would receive a writ protecting them from this kind of demand. He also gave a broad hint that he would not forget the names of those who complied with the sheriff's request. The knights then conferred outside the court, and here Theobald and Hugh presented the real grounds of their objection. The sheriff's actions, they argued, were 'contrary to their liberty which they ought to have by the charter of the lord king' and they maintained that the matter ought to be referred to the earl of Chester and other magnates of the county. They then acted as spokesmen of the knights in repeating their refusal in the county court. One wayward knight, Thomas

[48] The ten wapentakes of Ancaster.

fitz Simon, steward of John Marshal, accepted the sheriff's argument that his office warranted him to hear pleas and he pronounced judgement on the first case. He was silenced by Theobald: 'You pronounce your judgement now: soon we shall see your lord and we shall tell him how you behaved in this county court.'[49]

Theobald and Hugh excused themselves when this case first came up in the Bench in Hilary 1226. However, they appeared in the Easter term and were far from abashed. They stated that the sheriff was trying to hold the shire court at intervals of five weeks or even less. The customary interval, they argued, was forty days, and since the king had granted to all his free men their liberties and ancient customs they considered that the position of the shire court ought not to be changed without the consent of the king and the magnates of the realm. In the case of the wapentake court they seem to have exploited the imprecision of the Charter, which laid down that the sheriff was to hold his tourn twice a year, but made no reference to any other sessions of the courts of hundred and wapentake. They stated that since the liberties had been conceded,[50] the sheriff had only held the court twice a year 'in accordance with the Charter of Liberty', but that his attempt to hold the session at Ancaster had infringed this. The Bench recorded no decision. Bracton, who later included the case in his note book, noted that Hugh and Theobald were dismissed by the order of the king. They had won their case.[51] It was by no means exceptional. It was closely similar to the action which the men of Devon brought against their sheriff in 1214 on the basis of the local charter of liberties which they had bought in 1204.[52] Eight years after the Lincolnshire case the king and magnates found

[49] *Curia Regis Rolls*, XII, no. 2142.
[50] This could refer either to 1217 or 1225, more probably to the latter date.
[51] *Curia Regis Rolls*, XII, no. 2312. The case has often been discussed (see Pollock & Maitland, 1898, I, 549–50, and Helen M. Cam, *The Hundred and the Hundred Rolls*, London, 1930, pp. 15–16).
[52] See above, pp. 66–7.

it necessary to interpret the provisions of cap. 42 on the sessions of hundred and wapentake.[53] The Lincolnshire action was simply one chapter in a long story. So it must have been too for some of the men involved. Theobald Hautein was one of the many Lincolnshire knights who had joined the rebellion in 1215. So also was Norman Darcy, one of the jurors who first reported on the case in the Bench.[54]

The men involved in this case confidently assumed that the Charter was law. It certainly was so in that it could now be used to reinforce an argument in the courts and claimed as a defence of individual or local privilege. But there was still some uncertainty about its status. In both 1216 and 1217 it was issued under the seals of William Marshal and the legate. It would not be truly secure until it had been granted by an adult king of his own free will. The magnates clearly appreciated this. Their first demand for a confirmation came in January 1224, a month after the partial declaration of Henry's majority.[55] All they got from Henry was the reply that what had been sworn on oath should be observed. This was clearly inadequate and the nervousness increased. The re-issue of the Charter in 1225 emphasized that it was granted of the king's free will, in exchange for the grant of a fifteenth on movables, and that the king would neither do nor procure anything to infringe or weaken it. As in 1215 the magnates were trying to guard against the possibility of papal annulment. However, even this re-issue was not entirely secure, for Henry was still subject, as a minor, to the disability that he could not make grants in perpetuity under the great seal. The re-issue was an exception, but this did not increase its security. When he came of age in 1227 Henry took no immediate action except to adjust some of the

[53] See below, pp. 395–6.
[54] Compare also the reported reaction of the county court of Lincolnshire to the case of Gilbert de Gant, 1218 (above, pp. 168–9).
[55] *Chron. Maj.* III, 76 (see Norgate, 1912, pp. 214–16 and above, p. 378 n., on the dating of this passage).

perambulations of the forest which had been executed after 1225.[56] He still accepted both charters, for juries of four knights were summoned from the counties in the summer to report along with sheriffs and foresters on the difficulties which had arisen in their enforcement.[57] But some slight doubts remained,[58] and it was not until ten years later, in January 1237, that both charters were finally confirmed in a binding and unexceptionable form. Henry then issued a 'small' charter of confirmation which copied the opening phrases of Magna Carta and confirmed all the liberties which he had conveyed when under age both in Magna Carta and in the Charter of the Forest. He now granted these in perpetuity 'notwithstanding that these charters were completed when we were a minor'.[59] Nearly twenty-two years after Runnymede the liberties were at last formally secure. Among the witnesses to the 'small' charter were Peter des Roches, Hubert de Burgh and William de Warenne, who had advised King John at Runnymede in 1215, and John de Lacy, Richard de Percy and Richard de Munfichet, who had been members of the Twenty-Five. Magna Carta was secured within a single generation, but only just.[60]

The confirmation of 1237 gave formal recognition to a surrender which followed almost inevitably on Henry's long minority. The king never resisted effectively for long; indeed it may have been impossible. Moreover on two occasions before 1237 he made the clearest practical recognition of the validity of the Charters. The first arose from the perambulations of the forest which followed the re-issue of 1225. Henry issued letters which recited the terms of the disafforestation clauses of the Forest Charter and the section of cap. 17 which laid down that all those who received these liberties from him were to grant the same to their men. He then went on to say that he had received complaints from the knights and men of Westmorland that, despite this, William of Lancaster, lord of Kendal, had retained certain woods and moors afforested 'to the damage of the knights and other honest men of the neighbourhood'. William was now instructed to disafforest them. Similar letters were sent to Robert de Vieuxpont, William de Warenne, John de Lacy, Robert Grelley, and others in the interests of named petitioners.[61] Henry clearly took a serious view of the principle that the benefits of the Charters should be available to under-tenants. He returned to the same point in letters of August 1234. Here he emphasized that the Charters had been granted to both great and small, reviewed the provision that what he granted to his men they should also grant to theirs, and finally ordered that this should be observed by all, both by his own bailiffs and by the magnates and their bailiffs; they were to make especially sure that the hundred courts, whether royal or private, were not to meet more than twice a year.[62] Here Henry, like the Lincolnshire knights in 1226, was interpreting cap. 35 in a very narrow sense. In October he addressed further letters to the sheriff of Lincolnshire, who had apparently been in doubt on the function of the wapentake courts ever since the re-issue of the Charter in 1225. The king now explained that he had had this particular clause read before the archbishop, bishops, earls and barons and that he had decided with their advice that these courts should henceforth be held every three weeks. He also laid down that there should be no general summons except on the occasion of the sheriff's tourn. He clearly realized the burden of suit of court, for his letters were couched in conciliatory language in which he explained that frequent

[56] Bazeley (1921), 140 ff. [57] *Rot. Litt. Claus.* II, 212*b*–213.

[58] Wendover thought that the king quashed the Charter of the Forest in the summer of 1227 (*Chron. Maj.* III, 122). Turner clearly showed that he was wrong (1899, pp. xcviii–ci), but Wendover's story seems to reflect a real fear that the king might exploit the fact that he had granted the Charters as a minor.

[59] *Statutes of the Realm*, I, 28.

[60] Stacey (1987, pp. 112–13) adopts another view of the 'small' charter. This appears to be based on a mistaken reading of the *non obstante* clause.

[61] *Patent Rolls, 1216–25*, pp. 575–6.

[62] *Close Rolls, 1231–4*, pp. 592–3 (cp. also *ibid.* p. 551).

sessions were necessary for the maintenance of the peace, and that he desired as far as possible to reduce the burden on the poor. The three-weekly interval he now laid down was in fact longer than the customary fortnightly one at which most local courts had apparently met hitherto.[63] Here was a king seeking a genuine and reasonable application of a section of the Charter. Henry's rejection of the forest perambulations and his attempts to escape from some of the consequences of the re-issue of 1225 are only part of the story. On other matters he was as ready as the magnates to accept the Charters as part of the law of the land.

Between 1225 and 1237 the Charters became securely established. They had now been confirmed twice in return for taxation. The Church was closely committed to preserving them.[64] Stephen Langton in 1225 and Edmund of Abingdon in 1237 had solemnly pronounced sentence of excommunication against violators. Some problems of interpretation had been settled; others, like the forest perambulations, remained unresolved. The Charters had become more than a legal and administrative prescription. They were a test of good faith, from 1237 onwards the first requirement and concession in the periodic reconciliations between the Crown and its great vassals. But from this point onwards the Charter came to be less immediately connected with each succeeding political crisis. As early as 1244 the emphasis was shifting from the Charter itself to schemes for conciliar control of the king which would ensure that he executed what he promised,[65] and it was only by making

[63] 'De interpretatione clausule contente in libertatibus, qualiter debeat intellegi' (*Close Rolls, 1231–4*, pp. 588–9). Sir Maurice Powicke attached great importance to the conciliatory language of this letter: 'A feudal assembly which legislates for the community in this way is already a national assembly' (Powicke, 1947, I, 148). The letter established that the magnates were consulted, but does not in any way imply that the concern for the poor which it expressed originated with them. The roll does not record that it was sent to any county other than Lincolnshire.

[64] For an important study of the ecclesiastical interest see Gray (1968).

[65] *Chron. Maj.* IV, 366–8. I am following C. R. Cheney in accepting Matthew Paris's date for this scheme (*E.H.R.* LXV, 1950, 213–21; cp. Denholm-Young, *E.H.R.* LVIII, 1943, 401–23).

extensive additions that the Charter could be brought into closer touch with the political objectives of the moment. Hence from 1237 onwards the Charter came to have a double history. On the one hand it became a shibboleth in the constitutional and political struggles of the thirteenth century. On the other it was advanced in evidence more and more in individual actions in the courts or in petitions to the Crown.[66] The characteristic process of interpretation began before the end of the reign of Edward I. It was instanced in the constitutional sphere by the Confirmation of the Charters of 1297 and the *Articuli super cartas* of 1300. It was illustrated in private actions by the claim advanced in 1283 that cap. 16 was concerned with rights of fishing not rights of hawking[67] and by the oblique equation in the Year Book of 1302–3 of trial by jury with judgement by peers.[68] The myth was being formed.

But the myth was not simply a creation of the later thirteenth and succeeding centuries. Already in 1237 the Charter had acquired mythical qualities which help to account for its later history. The Charter of 1215 embodied a revolutionary programme, that of 1217 and 1225 was a statement of law. The first was quashed, the second confirmed. Yet from the start men emphasized the continuity between the two. When William Marshal sent copies of the 1216 re-issue to Ireland in February 1217, the official formula of the covering letters was that it contained the 'liberties granted by us and our father'.[69] In time some men became completely confused. In 1231, for example, an Oxfordshire jury assumed that the regulations on sheriffs' tourns, which had been included for the first time in the

[66] See Thompson (1925), pp. 37–67, esp. 66–7.

[67] McKechnie (1914), pp. 302–4; Thompson (1925), pp. 61–2.

[68] *Year Book 30–31 Edward I*, p. 531. The passage is noted and discussed in Pollock & Maitland (1898), II, 625 n.; McKechnie (1914), p. 393 n.; Thompson (1925), p. 62. The accused rejected trial by jury on the grounds that the jurors were his accusers. He also claimed that since he was a knight he ought to be judged by his peers. The judge accepted this claim and a jury of knights was nominated.

[69] *Patent Rolls, 1216–25*, p. 31.

1217 Charter, were part of the 'Charter of Runnymede'.[70] One factor in this was that some of the demands made in 1215 and dropped from subsequent re-issues were still very much in men's minds. An obvious instance was the association of scutage and aid and the proposal that scutage like aids should be subject to consent. Consent to scutage never became established under Henry III. Like his father, he levied it as of right on the occasion of a campaign on those who did not acquit their service in other ways,[71] and this was frequently done without any kind of consultation. Despite this, scutage and aids were repeatedly confused, and scutage and consent associated. In 1217 an aid was collected to help pay the indemnity due to Prince Louis under the terms of the Treaty of Lambeth. This was described in both the Chancery and the Exchequer rolls as a scutage 'assessed by the common counsel of our realm'.[72] The confusion here was merely semantic for the aid was in fact levied as a tax of two marks on the knight's fee. Nevertheless, it is disturbing to find government officials permitting a statement which might be subject to misconstruction. There was even great confusion in the case of a genuine scutage in 1229 which was occasioned by the campaign in Brittany. This was levied at the rate of 3 m., which exceeded the strict terms of the 1217/1225 Charter, and this may explain some of the unusual features of its assessment. Whatever the reason, the Pipe roll of 1229 recorded that the scutage was assessed by the counsel of earls and barons who had met at Northampton on 23 July. It also stated that the archbishop and his suffragans were summoned to Westminster at Michaelmas to consent to the same scutage. They met the king's request by agreeing to give him an aid equivalent to their scutage assessment. They refused to admit that they did this because of the military summons they had received

[70] *Curia Regis Rolls*, XIV, no. 1188.
[71] Mitchell (1914), pp. 338–40 and *passim*.
[72] *Rot. Litt. Claus.* I, 371; P.R.O., K.R. Memoranda Roll 2 Henry III, m. 7d.

from him and they provided that neither party to the bargain was to lose or acquire rights as a result of it.[73] It was perhaps inevitable that the ecclesiastical tenants of the Crown should take the lead in this particular issue for they were likely to accept demands for overseas service less readily. They repeated this action in 1230 when a scutage for the campaign in Poitou was assessed by the lay magnates who were with the army. Once more the king had to accept a protest that the clergy had not been consulted, followed by an offer of an aid at the same rate as the scutage.[74] But the confusion was not limited to ecclesiastical circles or restricted to debates in great assemblies. Between 1215 and 1232 Geoffrey Worslype and Margaret his wife sold a number of small parcels of land in Moulsoe, Bucks., to Robert fitz Peter of Stratton. The land was transferred in perpetuity and the one service demanded was 'one penny for scutage when scutage is given in the realm by the common counsel of the realm'.[75] The ideas of 1215 ran deep.

Scutage was not the only tax affected by the provisions of the 1215 Charter. In 1217 Peter des Roches refused to pay the aid of 2 m. on the knight's fee on the grounds that he had not consented to it; William Marshal, the king's council, and later the barons of the Exchequer accepted his case.[76] In 1220 there was widespread resistance to the assessment of a carucage. Peter des Roches was involved again, along with the young earl marshal, and the earls of Chester and Salisbury. The writs of assessment stated that the tax had been conceded by the magnates and the king's faithful

[73] *Pipe Roll 13 Henry III*, rot. 7, m. 1d. The entry was copied by Madox (*Exchequer*, London, 1769, I, 607 n.) and discussed by Mitchell (1914), p. 186.
[74] Mitchell (1914), p. 192.
[75] P.R.O. Duchy of Lancaster, Cartae Miscellaneae, no. 53. I am indebted to Dr Patricia Barnes for bringing this charter to my notice The relevant phrase runs as follows: 'Reddendo inde unum denarium ad scutagium scilicet quando scutagium datur in regno per commune consilium regni.'
[76] Madox, *Exchequer*, I, 675 n.

subjects.[77] Nevertheless, the knights of Yorkshire refused to execute the writ of assessment on the grounds that the magnates of the county had not been consulted and knew nothing of the levy. In words which seemed to echo the provision of cap. 14 they said that the magnates should be consulted either viva voce or by letter: some of them made it clear that their objection was not to the carucage as such but to the fact that consent had not been sought in what they considered was the proper manner.[78] Thirty-five years later, if Matthew Paris is to be trusted, the magnates repeated the same argument even more explicitly by refusing Henry's demands for an aid on the grounds that they had not been summoned according to the terms of the Great Charter.[79] The Charter had helped to start a long and diffuse debate on the processes of consultation, consent and forms of representation. It clearly made the government very sensitive. The writs for the assessment of the fortieth of 1232 stated that the tax had been conceded by earls, barons, knights, free men and villeins; those for the assessment of the thirtieth of 1237 that it had been conceded by earls, barons, knights and free men on their own behalf and for the villeins.[80] These were unrealistic and impracticable assertions which nevertheless reflect some attempt to wrestle with the problem.

There was little in the text or the method of publishing the documents to explain why the demands of 1215 should have survived in this way. The re-issues were distributed to each shire as the original had been in 1215.[81] The government assumed that a copy was available in every county.[82] Instructions were issued on the occasion of each re-issue that the Charters should be read in full county court,[83] and this

[77] *Rot. Litt. Claus.* I, 437.
[78] *Royal Letters*, I, 151–2. This incident is thoroughly discussed by Mitchell (1914), pp. 130–2, and Powicke (1947), I, 33–4.
[79] *Chron. Maj.* V, 520–1. [80] *Stubbs's Charters*, pp. 356, 358.
[81] See Poole (1913), 450 ff. and Thompson (1925), pp. 93 ff.
[82] *Close Rolls, 1231–4*, p. 592. [83] *Rot. Litt. Claus.* I, 336, 377; II, 70, 72*b*.

was repeated in the case of the 'small' charter in 1237.[84] The system was continued in subsequent confirmations until 1265, when the sheriffs were instructed to publish the Charters twice yearly. Thus every step was taken to make sure that the texts were known. How far the measures were effective must have depended to a large extent on local circumstances. In Wiltshire the original of 1225 was deposited in Lacock Abbey by the knights of the shire and had presumably been in their hands up to then.[85] In Nottinghamshire Magna Carta, the Charter of the Forest and the perambulation of Sherwood were still preserved in the early fifteenth century by the knights and magnates concerned in local administration.[86] In Essex in 1238 Richard de Munfichet was instructed to have the Forest Charter read in full county court.[87] He had been one of the Twenty-Five and it is difficult to imagine that he would fail to make the most of his opportunity. But zeal and confusion were not necessarily inconsistent. In 1237 the Chancery clerks were themselves uncertain whether it was the 'small' charter or the two larger charters which were to be read in the counties.[88] Moreover, the re-issues of 1217 and 1225 may themselves have caused some misunderstanding. The saving clause reserved to all men both clerk and lay the liberties they already held. This could easily be interpreted so as to include the Charter of 1215 if men ignored the annulment of Pope Innocent.[89] The

[84] *Close Rolls, 1234–7*, pp. 421, 426, 451, 499, 534. [85] Bémont (1892), p. 45.
[86] Holt (1960), 69. [87] *Close Rolls, 1237–42*, p. 22.
[88] *Close Rolls, 1234–7*, pp. 426, 541.
[89] There is little, however, to be said for Kate Norgate's view that this clause was so drafted that it might permit reconsideration of the clauses which had been dropped after 1215 (1912, p. 215). It also appears in the Charter of the Forest, which included all the forest privileges contained in the Great Charter of 1215. The main intent was to ensure that neither Charter invaded liberties already in existence. The papal legate who sealed the 1217 re-issue can scarcely have taken the view that the concessions of 1215 were still valid. Nor yet can Stephen Langton. It is therefore most unlikely that Langton sought anything more than a straightforward confirmation of the 1217 document in 1224 and 1225 (cp. Norgate, *ibid.*).

Charter was widely known. Innocent's bull could scarcely compete.

Despite the widespread knowledge of the Charter confusion was sometimes profound. It was illustrated at its deepest and most complex at St Albans.[90] Here, the first great chronicler of the house, Roger of Wendover, reproduced a text of the Charter which embodied elements from the 1215, 1217 and 1225 texts and, in the case of the security clause, from some other unknown source. He was quite convinced that there were no differences at all between the Charters of John and Henry III. He also attributed the Charter of the Forest to John and dated it 1215. His successor, Matthew Paris, did no better. He acquired a full text of the 1215 Charter, which Wendover had never apparently seen. Even so all he did was to insert the clauses dropped from the 1217 re-issue in the conglomerate text which he copied from Wendover. Late in life he obtained an authentic exemplification of the Charter of Henry III which was used in the ceremony of confirmation at Westminster in 1253. It made no difference. He headed it 'The Great Charter of King John which Henry III swore once again to observe in the great hall at Westminster', and then tucked it away in his volume of illustrative documents without any attempt to question the title he had given it or collate it with the version he had already entered in his chronicle. Against closed minds the documents were powerless except to reinforce preconceptions, and this is precisely what they did at St Albans. For Wendover the fight for the Charters was a continuous struggle from 1215 to 1225 and onwards. To Matthew Paris the claims of the baronage and the Church against Henry III were the same as those against John. Many of his additions to the chronicle of Wendover imposed anachronistic attitudes typical of the 1250's on the baronage and clergy of John's time. Paris used his interpretation of the

[90] For what follows, see Holt (1964).

reign of John to strengthen his criticism of the government of Henry III.

The St Albans chroniclers were not alone in interpreting events in this way. The rebellion of 1215 was more successful than many. Part of its programme survived; the rebel leaders remained largely undisturbed in land and estate; some lived on to enjoy long and influential careers. By 1217, and even more by 1225, much had been won. It is from this or later periods that most of the chronicle narratives come, and this does much to explain the widespread hostility to King John which deepened as the thirteenth century advanced so that he rapidly became the prototype of the 'bad' king.[91] The approach may be summarized in a series of syllogistic propositions: The 1225 Charter stated law. The 1225 Charter was the same as the 1215 Charter. Therefore, the 1215 Charter had stated law. Therefore, King John had been a tyrant who had ruled contrary to law and custom. Therefore, finally, any ruler who infringed the Charter was likewise guilty of tyrannous behaviour.

The argument had an underlying basis of fact. The 1225 Charter was founded on that of 1215; Henry's ministers had revived some of the policies for which John had been attacked in 1215; Henry, like his father, had introduced aliens into high office. But it already included a myth of vital importance. To transfer the legal status which Magna Carta acquired between 1217 and 1237 to the Charter of 1215 was to swallow the basic proposition advanced by the baronial party in 1215. It was to accept that the original Charter had been a statement of good and lawful custom which King John had ignored and infringed. This contention had not passed unchallenged at the time.[92] Yet there is every sign that men were now prepared to accept it. The great loyalist magnates acknowledged it when they re-issued the Charter,

[91] Holt (1963), pp. 16–25.

[92] See above, pp. 373–4.

and the chronicles asserted it almost without question.[93] And in accepting this men also accepted that the Charter in some way embodied the liberties of the realm. They owned that a list of liberties, conceived primarily in baronial interests, was an integral part of the law of the land, that the barons had, in fact, acted on behalf of the whole community. The St Albans chroniclers accepted this without question in recording the actions of the next generation. Wendover presented the rebellion of Richard Marshal in 1233 as one in which Richard was defending both his own rights and the rights of the realm; he appears as a paragon of constitutional virtue, prepared to stand by the judgement of his peers and denouncing the perjured counsellors of the king, 'the adversaries of the realm and the opponents of justice', as infringers of the Charter.[94] How far Richard saw himself as the country's deliverer from injustice must remain in doubt. But Wendover was not so very far from reality. The protest of the Yorkshire knights of 1220 and of Theobald Hautein and the Lincolnshire knights in 1226 both demonstrate that the gentry, at least, accepted the magnates' claim to act for the realm. Forty years later at the end of another baronial rebellion the villagers of Peatling Magna were to assert it also.[95] Such evidence is only one side of the coin. By 1265 there were issues enough which divided knights from magnates, and as the years passed other classes and interests were to claim to represent the community. But the assumption of 1215 is not dissolved by demonstrating that the Charter was conceived in baronial interests or that it reflected particular social conditions which changed with the passage of time. Later generations may have differed on what the community was and on who was entitled to represent it,

[93] See above, pp. 259, 279–80. Compare the attitude of the *Histoire des ducs de Normandie*, above, p. 271.

[94] *Chron. Maj.* III, 257–62.

[95] *Select Cases of Procedure without Writ* (Selden Soc., LX, 1941), no. 30. See the comments of Powicke (1947), II, 509–10, and Helen M. Cam, *Law-Finders and Law-Makers in Mediaeval England* (London, 1962), pp. 81–2.

but they were rarely in any doubt that authority should be subject to law which the community itself defined. Magna Carta could not ensure that this would always be so, but it endured as an example. It set no mean standard.